

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WILLIAM KOSTROUN,
Plaintiff,

- against -

BLEACHER REPORT, INC.
Defendant.

Docket No. 1:21-cv-00420

COMPLAINT

Plaintiff William Kostroun (“Plaintiff”) by and through his undersigned counsel, as and for his Complaint against defendant Bleacher Report, Inc. (“Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Evan Engram. The photograph is owned and registered by Plaintiff, a New Jersey-based professional photographer. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Plaintiff is a professional photographer having a usual place of business at 10 Werneking Place, Little Ferry, New Jersey 07643.

6. Upon information and belief, Defendant is a foreign business corporation duly organized and existing under the laws of Delaware, with place of business at 29 West 17th Street, 10th Floor, New York, NY 10011.

7. Defendant is registered to do business in the State of New York.

8. At all times material hereto, Defendant has owned and operated a website at the URL: <https://bleacherreport.com> (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

9. Plaintiff photographed New York Giants player Evan Engram (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

10. Plaintiff is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

11. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-127-178, effective as of November 15, 2018 (the “178 Registration”). A true and correct copy of the 178 Registration is attached hereto as Exhibit B.

B. Defendant’s Infringing Activities

12. On or about December 30, 2018, Defendant published an article on the Website which prominently features the Photograph. See URL <https://bleacherreport.com/evan-engram> (the “Infringing Article”). A screen shot of the relevant portion of the Infringing Article

displaying the Photograph is attached hereto as Exhibit C.

13. Defendant did not license the Photograph from Plaintiff for its article, nor did Defendant have Plaintiff's permission or consent to publish the Photograph on its Website.

14. Plaintiff actually discovered the allegedly infringing conduct on January 18, 2019.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT)
(17 U.S.C. §§ 106, 501)

15. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-14 above.

16. Defendant infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website.

17. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

18. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

19. Upon information and belief, the foregoing acts of infringement by Defendant have been willful or in reckless disregard of Plaintiff's rights.

20. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

21. Alternatively, Plaintiff is entitled to statutory damages for Defendant's willful infringement of the Photograph pursuant to 17 U.S.C. § 504(c).

22. Plaintiff is further entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

23. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: (a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or (b) alternatively, statutory damages per copyrighted work infringed pursuant to 17 U.S.C. § 504(c);
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: New Rochelle, New York
January 17, 2021

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